

MEMORANDUM

TO: Ron Drathman, Assembly President

Kenai Peninsula Borough Assembly Members

FROM: Drew Scalzi, Assembly Member

DATE: July 23, 1999

RE: Bridge Creek Watershed

Alaska Statute 29.35.020 provides in part,

Extraterritorial jurisdiction.

" . . .

(b) A municipality may adopt an ordinance to exercise a power authorized by this subsection and may enforce the ordinance outside its boundaries. Before a power authorized by this subsection may be exercised inside the boundaries of another municipality, the approval of the other municipality must be given by ordinance . . . A municipality intending to exercise its authority under this subsection shall act by ordinance, and may adopt an ordinance under this subsection to

(1) protect its water supply and watershed;"

The City of Homer's water supply is held in a reservoir north of the city limits on Bridge Creek. The reservoir was created by and continues to be held by an earthen dam. The watershed is roughly bounded by Skyline Drive and Crossman Ridge Road; the valley between them is the watershed. (Please see attached map.) This is the sole source of city water as, generally speaking, well water is not present in sufficient quantity, flow rate, and quality. Because of this, many residents who actually reside outside the city limits use city water that is trucked to them by water sellers, stored in tanks, and then used for both residential and commercial purposes.

As Homer develops, and population increases, pressures are felt in protecting the quality of the water supply. Residential development is starting to occur on all slopes of the watershed. the City of Homer seeks the statutory authority of AS 29.35.020 for the sole purpose of protecting its water supply. This is the city's responsibility and not the borough's.

This type of delegation of powers has occurred before in the Kenai Peninsula Borough for deep water wells and aquifers for the City of Kenai. The City of Homer cannot use this extraterritorial protection power until after the proposed borough ordinance is passed by the assembly. At that point, the City of Homer would be required to enact an ordinance solely for the purposes of "protect[ing] its water supply." This would be done pursuant to the ordinances of the City of Homer, laws of the State of Alaska, and in a manner that will guarantee due process to the property owners of the area.